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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,446	07/21/2003	Gregory Tuc	116640	5233
25944	7590	12/28/2005		
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			EXAMINER FERGUSON, MICHAEL P	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/622,446	<b>Applicant(s)</b> TUC ET AL.	
	<b>Examiner</b> Michael P. Ferguson	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claims 3 and 6 are objected to because of the following informalities:

Claim 3 (line 1) recites "at least one fixing tab has". It should recite --at least two fixing tabs each have--.

Claim 6 (line 1) recites "at least one fixing tab is... when it is". It should recite --at least two fixing tabs are... when said tabs are--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Levy et al. (US 5,729,948).

As to claim 11, Levy et al. disclose a fixing element **24** for assembling a tubular element **20** and a panel **20** together, the fixing element comprising:

a fixing tab **62** suitable for engaging in a slot **28** of the tubular element;

an opening capable of allowing a screw shank **40** to pass through for holding the panel; and

a face for pressing against one side of the panel, the face comprising stiffening ribs **64**, the stiffening ribs being configured in the face for bearing against the side of the panel when the panel is assembled with the fixing element (Figures 2-3A).

4. Claims 1-7,10-12,14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Papayoti (US 3,415,554).

As to claim 1, Papayoti discloses an assembly, comprising:

a tubular element **12** having a longitudinal axis and a slot **16** communicating with an inside of the tubular element;

a panel **12**;

a pair of fixing elements **66** configured for being mounted on the tubular element, one of the fixing elements comprising two fixing tabs **76,78** configured for engaging in the slot of the tubular element, the two fixing tabs being offset along the longitudinal axis of the tubular element when the one of the fixing elements is mounted on the tubular element,

wherein the pair of fixing elements and the panel are configured to enable the panel to be held between the fixing elements, the fixing elements being disposed on either side of the panel (Figures 16-22).

As to claim 2, Papayoti discloses an assembly wherein one of the fixing elements **66** has a face for bearing against one side of the panel **12** (Figure 17).

As to claim 3, Papayoti discloses an assembly wherein the two fixing tabs **76,78** each have a bearing surface suitable for bearing against an inside wall (inside wall of apertures **16**) of the tubular element **12** (Figure 16).

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As to claim 4, Papayoti discloses an assembly wherein the tubular element **12** has a cross-section with a not completely closed contour (apertures **16**; Figure 16).

As to claim 5, Papayoti discloses an assembly wherein the tubular element **12** has a plurality of slots **16** enabling two pairs of fixing elements **66** to be fixed side by side (Figures 16-17).

As to claim 6, Papayoti discloses an assembly wherein the two fixing tabs **76,78** are configured in such a manner that when the tabs are inserted in the corresponding slot **16** of the tubular element **12**, the fixing element **66** is capable of pivoting (bending) relative to the tubular element, prior to the panel **12** being put into place (Figure 16).

As to claim 7, Papayoti discloses an assembly wherein each of the fixing elements **66** has an opening **68**, and the panel **12** has a orifice **16**, and wherein the openings and the orifice are configured so as to define a passage for the shank of a screw **20** co-operating with a nut **26** (Figures 16-17).

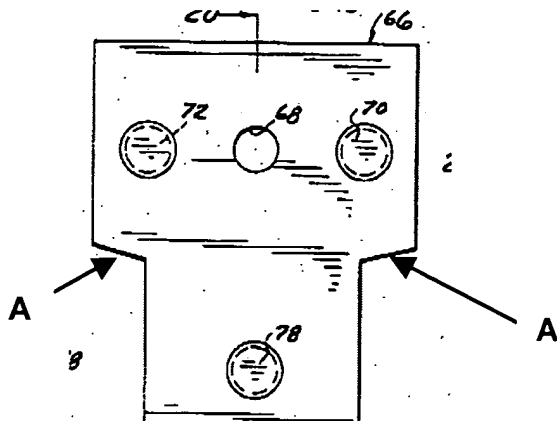
As to claim 10, Papayoti discloses an assembly wherein each of the fixing elements **66** is generally in the form of a half-shell (Figure 17).

As to claim 11, Papayoti discloses a fixing element **66** for assembling a tubular element **12** and a panel **12** together, the fixing element comprising:

- a fixing tab **76,78** suitable for engaging in a slot **16** of the tubular element;
- an opening **68** allowing a screw shank **20** to pass through for holding the panel;
- and
- a face for pressing against one side of the panel, the face comprising stiffening ribs **A** (Figure 18 reprinted below with annotations), the stiffening ribs being configured

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in the face for bearing against the side of the panel when the panel is assembled with the fixing element (Figures 16-22).



As to claim 12, Papayoti discloses a tubular element **12** for an assembly, the tubular element having four slots **16** disposed in a checkerboard configuration (slots **16** define parallel rows such as in a checkerboard) when observed in a direction perpendicular to the longitudinal axis of the tubular element (Figure 16).

As to claim 14, Papayoti discloses an assembly wherein the face has stiffening ribs **A** (Figure 18).

As to claim 15, Papayoti discloses an assembly, comprising:

a tubular element **12** having a slot **16**;

a panel **12**; and

a pair of fixing elements **66** not made integrally with the panel and configured for being mounted on the tubular element, one of the fixing elements comprising two fixing tabs **76,78**, both for engaging in one slot of the tubular element,

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wherein the pair of fixing elements and the panel are configured to enable the panel to be held between the fixing elements, the fixing elements being disposed entirely on either side of the panel (Figures 16-22).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Papayoti.

As to claim 16, Papayoti discloses an assembly, comprising:

a tubular element **12** being rectangularly cylindrical and comprising a slot **16**;

a panel **12**;

a pair of fixing elements **66** not made integrally with the panel and configured for being mounted on the tubular element, one of the fixing elements comprising a fixing tab **76,78** for engaging in the slot of the tubular element,

wherein the pair of fixing elements and the panel are configured to enable the panel to be held between the fixing elements, the fixing elements being situated on either side of the panel without touching each other (Figures 16-22).

Papayoti fails to disclose an assembly comprising a tubular element being circularly cylindrical.

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The applicant is reminded that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the assembly as disclosed by Papayoti to comprise a circularly cylindrical tubular element as such practice is a design consideration within the skill of the art.

7. Claims 8, 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Papayoti in view of Ateliers Reunis Caddie (FR 2 712 043).

As to claims 8, 9 and 13, Papayoti fails to disclose an assembly wherein one of the fixing elements comprises a setback capable of receiving one of a nut and the head of a screw, wherein the setback has a depth that ensures that the one of the nut and the head of the screw is received completely in the setback; and comprising a plug configured to be capable of engaging in the setback so as to cover the one of the nut and the head of the screw.

Ateliers Reunis Caddie teaches an assembly wherein a fixing element **11** comprises a setback capable of receiving one of a nut **14** and the head of a screw **13**, wherein the setback has a depth that ensures that the one of the nut and the head of the screw is received completely in the setback; and comprising a plug **27** configured to be capable of engaging in the setback so as to cover the nut; the setback and the plug improving the aesthetic appearance of the fixing element (abstract, Figure 4).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify an assembly as disclosed by Papayoti to have a



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fixing element having a setback, and a plug as taught by Ateliers Reunis Caddie in order to improve the aesthetic appearance of the fixing element.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's arguments, filed September 27, 2005, with respect to the rejection(s) of claim(s) 15 and 16 under Trafton (US 4,142,343) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Papayoti (US 3415,554).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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